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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,226	12/06/2001	Thomas Muller	4452-448	7880
7590	02/02/2004		EXAMINER	SICONOLFI, ROBERT
Thomas C. Pontani, Esq. Cohen, Pontani, Lieberman & Pavane Suite 1210 551 Fifth Avenue New York, NY 10176			ART UNIT	PAPER NUMBER
			3683	
			DATE MAILED: 02/02/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

A9

Office Action Summary	Application No.	Applicant(s)
	10/010,226	MULLER, THOMAS
	Examiner	Art Unit
	Robert A. Siconolfi	3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
 - 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>1,3</u> . | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Information Disclosure Statements filed on 12/06/01 and 6/7/02 have been received. Priority Papers filed on 3/19/02 have been received.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Schafer (DE2800630).

See figure 3 cylinder 1, rod 2, piston 8, conical valve body 11, spring 10, axially adjusted stop beneath the conical valve body threaded onto the piston

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer.

Regarding claim 5, Schafer is relied upon as above. Schafer does not disclose the valve body made of plastic. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use plastic for the valve body as such is merely a design choice.

Regarding claim 5, Schafer is relied upon as above. Schafer does not disclose the separating piston arranged on the piston rod in figure 3. Schafer discloses the separating piston arranged around the piston rod in figures 1 and 2. It would have been obvious to one of ordinary skill in the art at the time the invention was made to arrange the separating piston around the piston rod as such is merely a design choice.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schafer in view of Funkhouser (U. S. Patent no. 2,458,157).

Schafer is relied upon as above. Schafer does not disclose the use of a conical spring wherein the flow path coming from within the end coil. Funkhouser teaches the use of a conical spring wherein the flow path coming from within the end coil in a damper. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a conical spring wherein the flow path coming from within the end coil as taught by Funkhouser in the damper of Schafer as such is merely a design choice.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Siconolfi whose telephone number is 703-305-0580. The examiner can normally be reached on M-F 10 am-3 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Robert A. Siconolfi 1/22/07
Examiner
Art Unit 3683

RS